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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

NATIONAL URBAN LEAGUE, *et al.*,

Plaintiff,

v.

WILBUR L. ROSS, JR., *et al.*,

Defendants.

Case No. 5:20-cv-05799-LHK

**DECLARATION OF
MEGAN HELLER**

1 I, MEGAN HELLER, make the following Declaration pursuant to 28 U.S.C. § 1746, and
2 state that under penalty of perjury the following is true and correct to the best of my knowledge
3 and belief:

4 1. I am the Chief of the General Litigation Division, Office of the General Counsel
5 (OGC), U.S. Department of Commerce (DOC or Department), and have served in that (or in an
6 acting) capacity since February 2020. In my capacity as Chief, I assist, oversee, or am directly
7 responsible for, document production in litigation involving the Department and all of its bureaus.
8 In this capacity, I consult with DOC and bureau counsel and Department of Justice attorneys
9 regarding production of DOC documents. I submit this declaration to comply with the court's
10 January 11, 2021, order [ECF 444].

11 2. The statements contained in this declaration are based upon my personal
12 knowledge, and upon information provided to me in my official capacity.

13 3. This declaration addresses the Court's January 11, 2021 order (ECF 444).

14 4. The documents collected over the course of this litigation reflect three broad
15 categories: e-mails from custodians in the Department of Commerce Office of the Secretary (OS),
16 e-mails from custodians in the Census Bureau, and documents compiled and provided directly by
17 Census staff in response to plaintiffs' Requests for Production.

18 5. E-mails for OS and Census Bureau custodians were identified for potential
19 responsiveness using the search terms from the combined sixteen searches proposed by Plaintiffs
20 and two searches proposed by Defendants, as described in Defendants' filings, ECF Nos. 376-2
21 ¶ 6; 437 at 6. Materials responsive to those terms were subsequently screened for privilege using
22 the litigation screen identified in ECF No. 441 at 7-8. Additionally, some materials were subject
23 to further responsiveness and privilege review as described in ECF No 408-1 ¶¶ 6-13.

24 **OS Custodians**

25 6. On Monday, November 16, 2020, the first business day following the Court's
26 November 13, 2020 case management conference, I e-mailed the Office of the Chief Information
27 Officer (OCIO) for the Office of the Secretary requesting all e-mails dating from May 11, 2020,
28 to the present for Secretary Wilbur Ross, Deputy Secretary Karen Dunn Kelley, Michael Walsh,

1 and Daniel Risko. Those e-mail files were received on November 17, 2020, and subsequently
2 provided to the Department of Commerce's Relativity contractor for uploading into the Relativity
3 platform.

4 7. I have subsequently requested and received updates of those e-mail files on
5 November 23, 2020, December 14, 2020, and January 12, 2021. Each of those updates gathered
6 materials generated from the end date of the prior request up to the date of the request. I understand
7 that the December 14 e-mails are still threading and undergoing searches, and the January 12 e-
8 mails have been received and are being downloaded.

9 **Census Custodians**

10 8. On November 16 and 17, 2020, I e-mailed the Census Bureau Office of Information
11 Security (OIS) to request all documents and e-mails dating from May 11, 2020 to the present for
12 the following custodians: Director Steven Dillingham, Ron Jarmin, Enrique Lamas, Christa Jones,
13 Al Fontenot, Kathleen Styles, Michael Thieme, Deb Stempowski, Jennifer Reichert, Pat Cantwell,
14 Deirdre Bishop, Barbara LoPresti, John Abowd, Victoria Velkoff, Karen Battle, Timothy Olson,
15 James Christy, and Ben Overholt.

16 9. On November 20, 2020, I e-mailed OIS to request documents, in addition to those
17 listed in paragraph 8, from Nathaniel Cogley, Earl Mayfield, and Colleen Holzbach for the same
18 date ranges.

19 10. OIS informed us that, as the Census Bureau is on a different network from the
20 Department of Commerce and the file sizes were so large, it would be impossible to transfer the
21 files electronically, and we would have to arrange for an external drive to be provided to the Census
22 Bureau and sent via overnight delivery from Suitland, Maryland, to our Relativity contractor's
23 receiving data center in New Jersey. On November 23, 2020, the files for the custodians identified
24 in paragraphs 8 and 9 above were copied to an external drive and shipped, and that drive was
25 delivered to the data center on November 24, 2020. While downloading and processing the files
26 began upon receipt, I understand that the Thanksgiving holiday may have somewhat delayed that
27 process.

1 11. On November 25, 2020, I e-mailed OIS to request documents from Ali M. Ahmad
2 and Christopher Stanley spanning the same date range.

3 12. On December 2, 2020, it came to my attention that files had inadvertently not been
4 provided for Enrique Lamas, Deborah Stempowski, Jennifer Reichert, Pat Cantwell, Deirdre
5 Bishop, Barbara LoPresti, and Karen Battle. On December 3, I requested that OIS provide files
6 for those custodians, along with files for Steven Smith, James Treat, Michael Sprung, and Adam
7 Korzeniewski for the same date range. The documents again had to be loaded to an external hard
8 drive and shipped to New Jersey.

9 13. On December 14, 2020, I requested that updated e-mail files be provided from
10 November 20, 2020 to the present for the full list of 27 Census Bureau custodians. OIS confirmed
11 that the updated files had been pulled on December 16, 2020, current as of that date.

12 14. On December 22, 2020, I discovered that the updated files were missing for
13 Victoria Velkoff, James Christy, and Enrique Lamas; when I contacted Census OIS, I was
14 informed that they were having difficulty transferring the files electronically again.

15 15. On December 24, 2020, I became aware that, while instructions had been given to
16 collect the emails of Timothy Olson in the original collection of documents, his actual e-mail (.pst)
17 file was inadvertently missing. Upon realizing that Mr. Olson's e-mail file had inadvertently not
18 been included, I reached out to OIS immediately to confirm that his files could be provided
19 promptly with the updated e-mail files.

20 16. The external drive with the updated Census e-mails and Olson's original emails
21 from May through November 2020 was shipped to the contractor on December 30, 2020, and
22 delivered on December 31. I understand that file processing was delayed by the New Year's
23 holiday and the weekend, and that these e-mails are still in the process of threading and having
24 term searches run.

25 17. On January 5, 2021, I contacted the Census OIS to request the following: e-mails
26 from the rumors@census.gov account from July 29, 2020 to the present; e-mails from the accounts
27 of the six Census Bureau Regional Directors dating from July 29, 2020 to the present; updated e-
28 mails for the Census custodians from December 16, 2020 to the present. These were shipped from

1 Census on January 8, and, after a shipping delay, delivered to the data center in New Jersey on
2 January 12, 2021.

3 18. With respect to Mr. Lamas specifically, his emails (except for the ones excluded by
4 the screen methodologies identified in paragraph 4) for the time period from May 11, 2020 to
5 December 16, 2020, were produced to Plaintiffs on December 31, 2020, and January 12, 2021. Mr.
6 Lamas' emails covering the time period of December 16, 2020 through the end of his service at
7 the Census Bureau are being prepared for processing and production. Mr. Lamas retired from
8 federal service effective January 1, 2021, so I do not anticipate needing to conduct any additional
9 updated collections for his emails.

10 **Census Documents**

11 19. In addition to emails from Census Bureau custodians, Census Bureau personnel
12 also manually collected additional documents responsive to Plaintiffs' Requests for Production.
13 These documents have been loaded by Census decennial staff to the Commerce secure file
14 collaboration site ("Kiteworks") in stages from November to the present. I have in turn transferred
15 those documents to our Relativity contractor for loading into the Relativity workspace for review
16 and/or production. Those documents are described below. Where appropriate, the documents
17 underwent review by the Census Bureau's Disclosure Review Board prior to release.

18 20. The presentations by the Census Integration Group (CIG) are stored on a secure
19 SharePoint site and the custodian is Deidre Hicks. The following categories of CIG presentations
20 were uploaded to the Kiteworks site, transferred to Relativity, and, have since been produced to
21 Plaintiffs:

- 22 a. 10 CIG Deck presentations related to ACO Closeout were loaded on December 10,
23 2020
- 24 b. One CIG Deck presentation related to 2020 Census Archiving was uploaded on
25 December 8
- 26 c. Three CIG Deck presentations related to Count Question Resolution were uploaded
27 on December 8
- 28 d. Six CIG presentations related to Communications were uploaded on December 14

- e. One CIG presentation related to Count Review was uploaded on December 14
- f. Two CIG presentations related to Coverage Improvement were uploaded on December 14
- g. Six CIG presentations related to Decennial Field Quality Monitoring (DFQM) were uploaded on December 14
- h. One CIG presentation related to Census Evaluations, Experiments, and Operational Assessments was uploaded on December 14
- i. Six CIG presentations related to Enumeration at Transitory Locations were uploaded on December 14
- j. 13 CIG Presentations related to late Group Quarters Enumeration were uploaded on December 14
- k. 17 CIG Presentations related to the Presidential Memorandum were uploaded on December 14
- l. Six CIG Presentations related to Remote Alaska were uploaded on December 14
- m. Nine CIG presentations related to Service Based Enumeration were uploaded on December 14
- n. Four CIG Presentations related to Update Enumerate were uploaded on December 14
- o. Six CIG Presentations related to Island Areas were uploaded on December 17
- p. Eight CIG presentations related to Decennial Service Centers were uploaded on December 9
- q. 78 Census Self-Response Daily Report CIG presentations related to were uploaded on December 10 and 11
- r. Eight CIG presentations related to Field Ops were uploaded on December 10
- s. One CIG presentation related to Group Quarters Quality Assurance was uploaded on December 9
- t. One CIG presentation related to Master Address File (MAF) Enhancement was uploaded December 10

- 1 u. One CIG presentation related to orderly shutdown was uploaded on December 10
- 2 v. One CIG presentation related to guidance following the September 5, 2020 court
- 3 order was uploaded December 10
- 4 w. One CIG presentation related to end of operations was uploaded December 8
- 5 x. One CIG presentation related to the Replan was uploaded December 8
- 6 y. Five CIG presentations related to Mobile Questionnaire Assistance were uploaded
- 7 December 10
- 8 z. 37 CIG presentations related to NRFU were uploaded December 10
- 9 aa. 19 CIG presentations related to NRFU were uploaded December 8
- 10 bb. 12 CIG presentations related to NRFU were uploaded December 9
- 11 cc. One CIG presentation related to NRFU Quality Assurance was uploaded December
- 12 10
- 13 dd. Four CIG presentations related to NRFU Soft Launch were uploaded December 8
- 14 ee. One CIG presentation related to Off Campus Student Record Collection was
- 15 uploaded December 10
- 16 ff. One CIG presentation related to Redistricting was uploaded December 8
- 17 gg. Four CIG presentations related to Residual Coding were uploaded December 11
- 18 hh. Four CIG presentations related to Risks were uploaded December 11
- 19 ii. 48 CIG presentations related to Self-Response were uploaded December 9
- 20 jj. 21 CIG presentations related to Self-Response were uploaded December 10
- 21 kk. 6 CIG presentations related to Update Leave were uploaded December 10
- 22 ll. 10 CIG presentations related to the Post-Enumeration Survey were uploaded on
- 23 December 29
- 24 mm. Six CIG presentations related to Island Areas were uploaded on December 29
- 25 nn. Five CIG presentations related to Demographic Analysis Estimates, ACO Closeout,
- 26 the Privacy/Accuracy Tradeoff, Device Decommissioning, and the Post-
- 27 Enumerative Survey were uploaded on December 31, 2020.
- 28

1 21. All of these materials have since been produced to Plaintiffs, following review by
2 the Disclosure Review Board (DRB) when necessary.

3 22. The custodian for the Data Quality Executive Governance Group (“EGG”)
4 documents is Jennifer Ortman. Materials related to the Data Quality EGG were uploaded to
5 Kiteworks on the following days:

- 6 a. 12 documents related to the Data Quality EGG were uploaded November 25
- 7 b. One document related to the Data Quality EGG was uploaded November 30
- 8 c. Four documents related to the Data Quality EGG were uploaded December 10
- 9 d. 28 documents related to the Data Quality EGG were uploaded were uploaded
10 December 14
- 11 e. Six documents related to the Data Quality EGG were uploaded on January 11, 2021.

12 23. All of these materials have since been produced to Plaintiffs, following review by
13 the DRB when necessary.

14 24. The custodian for briefing materials presented to the Department of Commerce is
15 Robin Wyvill. The custodian for the Census post-processing schedule is Barbara LoPresti.
16 Michael Thieme and Barbara LoPresti are the custodians for documents related to anomalies.
17 Materials reflecting the Census post-processing schedule, anomaly trackers, and presentations to
18 the Department of Commerce were uploaded to Kiteworks on the following days:

- 19 a. 84 briefing decks were uploaded on November 23, 2020.
- 20 b. Three briefing decks were uploaded on December 2, 2020.
- 21 c. 162 documents related to anomalies and post-processing were uploaded on
22 December 11, 2020.
- 23 d. 84 briefing decks, schedules, and anomaly trackers were uploaded on December
24 29, 2020.
- 25 e. 16 Anomaly Trackers were uploaded on December 29, 2020.
- 26 f. Nine additional anomaly trackers were uploaded on December 30.
- 27 g. Five items including a presentation regarding backend processing, an anomaly
28 tracker, and scheduling documents were uploaded on January 7, 2021.

1 25. All of these materials have been produced to Plaintiffs.

2 26. The custodian for the Risk documents is Deidre Hicks. Two hundred and five (205)
3 Risk documents were uploaded to Kiteworks on November 25, 2020. All of these materials were
4 produced to Plaintiffs.

5 27. The custodian for documents related to the Presidential Memorandum is John
6 Abowd. Two hundred twenty-seven (227) documents related to the Presidential Memorandum
7 were uploaded to Kiteworks on December 11, 2020. All of these materials were produced to
8 Plaintiffs.

9
10 I have read the foregoing and it is all true and correct.

11 DATED this 12th day of January, 2021
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16 MEGAN HELLER
17 Chief, General Litigation Division
18 Office of the General Counsel
19 United States Department of Commerce
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